

**SIXTY-FOURTH DAY**  
(Tuesday, May 7, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

A quorum was announced present.

Senator Ray Farabee offered the invocation as follows:

Heavenly Father, we come before You today thanking You for another opportunity to serve. We pray, O Lord, that this day we may grow more like You. Teach us humility and remind us that we are called to do our best, not to force our opinions on others. Fortify us with the strength that comes from Your righteousness. We dedicate this day to You. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**REPORTS OF STANDING COMMITTEES**

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

**C.S.S.B. 861**  
**H.B. 488** (Amended)  
**H.B. 2086**

Senator Parmer, Acting Chairman, submitted the following report for the Committee on Health and Human Resources:

**H.C.R. 125**  
**S.C.R. 123**

Senator Farabee submitted the following report for the Committee on State Affairs:

**H.C.R. 79**  
**H.C.R. 171**  
**S.B. 852**  
**H.B. 1140**  
**H.B. 1787**  
**H.B. 1819**  
**C.S.H.B. 271**  
**C.S.H.C.R. 42**  
**C.S.H.B. 1216**  
**C.S.H.B. 1389**  
**C.S.S.B. 825**  
**C.S.S.J.R. 31**  
**C.S.H.B. 460**  
**H.B. 1259** (Amended)

Senator Jones submitted the following report for the Committee on Finance:

**S.B. 1409** (Amended)  
**H.B. 1202**  
**H.B. 2300**  
**C.S.H.B. 2044**  
**C.S.H.B. 2301**

**CONFERENCE COMMITTEE REPORT  
HOUSE JOINT RESOLUTION 6**

Senator Montford submitted the following Conference Committee Report:

Austin, Texas  
May 6, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.J.R. 6** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONTFORD  
SANTIESTEBAN  
TRUAN  
LYON  
BROWN

On the part of the Senate

CRADDICK  
BUCHANAN  
CLARK  
GEISTWEIDT  
STANISWALIS

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 2**

Senator Montford submitted the following Conference Committee Report:

Austin, Texas  
May 6, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONTFORD  
SANTIESTEBAN  
TRUAN  
LYON  
BROWN

On the part of the Senate

CRADDICK  
BUCHANAN  
CLARK  
GEISTWEIDT  
STANISWALIS

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

### MESSAGE FROM THE HOUSE

House Chamber  
May 7, 1985

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.J.R. 19**, Proposing a constitutional amendment authorizing the issuance of general obligation bonds to provide financing assistance for the purchase of farm and ranch land.

**H.C.R. 199**, In memory of Frank Glieber.

The House has concurred in Senate amendments to **H.B. 248** by a record vote of 144 ayes, 0 noes and 1 present not voting.

**H.B. 168**, Relating to the mandatory grounds for refusing to issue certain alcoholic beverage licenses and permits.

**H.B. 196**, Relating to the creation of a farm and ranch finance program.

**H.B. 478**, Relating to employment and compensation of court coordinators, administrative assistants, and auditors for statutory probate courts.

**H.B. 580**, Relating to application of width regulations to farm tractors and certain implements of husbandry on public highways.

**H.B. 690**, Relating to allocation of the authority in the State to issue private activity bonds.

**H.B. 938**, Relating to the administration, allocation, and distribution of money in the public transportation fund.

**H.B. 978**, Relating to the requirements for a public junior college to receive a portion of State appropriations for public junior colleges.

**H.B. 1333**, Relating to the issuance of bonds by the Matagorda County Hospital District.

**H.B. 1485**, Relating to certain legislative records, communications, information, advice and opinions.

**H.B. 1561**, Relating to the authority of counties to establish and operate an electronic funds transfer system for the payment of salaries, compensation and reimbursement to officers and employees.

**H.B. 1717**, Relating to the sale of certain mixtures of gasoline and alcohol; providing penalties.

**H.B. 1718**, Relating to appeal to the Railroad Commission of Texas of a decision involving rates of a gas utility.

**H.B. 1731**, Relating to the basis for suspending a handicapped student from participating in extracurricular activities.

**H.B. 1743**, Relating to the subdivision and use of mineral-bearing land.

**H.B. 1861**, Relating to reduction of homeowners insurance premiums for installation of certain security devices.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 368 WITH HOUSE AMENDMENT**

Senator Barrientos called **S.B. 368** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.  
Committee Amendment No. 1

Substitute the following for **S.B. 368**:

**A BILL TO BE ENTITLED****AN ACT**

relating to the reorganization of the Travis County Municipal Utility District No. 1 as a special law district; the continuation of it as a district and of its outstanding obligations; the issuance of previously voted bonds and the levy of previously voted taxes, if any; and the validation of prior elections, other actions, and contracts of the district.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1. DEFINITIONS.** In this Act:

(1) "District" means the Travis County Municipal Utility District No. 1.

(2) "Board" means the district's board of directors.

**SECTION 2. REORGANIZATION.** Travis County Municipal Utility District No. 1, previously established and created as a municipal utility district under Chapter 54, Water Code, is reorganized as a special law district operating under this Act with all powers granted under Article XVI, Section 59, of the Texas Constitution and this Act.

**SECTION 3. DISTRICT BOUNDARIES.** (a) The district includes all property located within its boundaries as described in Volume 4577, Pages 2160-2170, and Volume 8013, Page 951, Travis County Deed Records, and also includes areas previously or subsequently annexed to the district and filed of record in those deed records.

(b) The legislature finds that the boundaries and field notes of the district form a closure. If a mistake has been made in copying the field notes on file in the deed records or subsequently filed pursuant to annexation, that mistake does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to issue bonds previously or subsequently approved by the voters; or

(3) the right to assess, levy, and collect taxes for the district's operations, projects, or activities.

(c) The legislature finds that all property located within the district's boundaries has been, is, and will be benefitted by the district, by this Act, and by the projects and properties permitted by this Act and by prior applicable law.

(d) The board may exclude land from the district and add land to the district in accordance with the provisions for the exclusion and addition of land of municipal utility districts in Chapter 54, Water Code.

**SECTION 4. POWERS AND DUTIES.** (a) The district has all of the rights, powers, privileges, functions, and duties conferred and imposed by Chapter 54, Water Code, but to the extent that any provision of Chapter 54, Water Code, may be in conflict with or inconsistent with this Act, this Act prevails.

(b) The board may spend funds, borrow money, and issue bond anticipation notes and tax anticipation notes, levy and collect maintenance taxes, and carry out all acts and have all power and authority contained in Subchapter E, Chapter 54, Water Code.

(c) The board may issue bonds as provided by Sections 54.501 through 54.515, and Sections 54.518 through 54.521, Water Code. Sections 54.516 through 54.517, Water Code, are applicable to the district.

**SECTION 5. BOARD OF DIRECTORS.** (a) Powers of the district shall be exercised by a board of directors consisting of five members.

(b) Directors serve staggered four-year terms and each shall serve until his successor has qualified.

(c) Each director must be 18 years of age or older, a resident of the district, and a qualified voter of the district.

(d) As soon as practicable after a director is elected or appointed, he shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of his duties. All director's bonds shall be approved by the board and recorded in the official bond records of the district.

(e) Any candidate for the office of director shall file with the secretary of the board, or any agent who may be designated by the board, an application to have his name printed on the ballot. The application shall be filed at least 30 days before the election.

(f) After the directors elected at each election have qualified by executing the appropriate bond and taking the proper oath, they shall organize by electing, as soon as practicable, a president, a vice-president, a secretary, a treasurer, and any other officers as in the judgment of the board are considered necessary.

(g) All vacancies on the board shall be filled by appointment of the remaining directors for the unexpired term.

**SECTION 6. ORGANIZATION.** (a) The directors shall adopt bylaws at the first meeting after the effective date of this Act. Three directors constitute a quorum for any meeting, and a concurrence of a majority of the directors shall be necessary in all district matters. The board shall prescribe the method of execution of all contracts, the signing of checks, and the handling of any other matters approved by the board as shown in the official minutes of the district.

(b) The board may designate one or more assistant secretaries who are not required to be members of the board. The president shall preside at all meetings of the board and shall be the chief executive officer of the district. The vice-president shall act as president in the absence or disability of the president. The secretary shall act as president if both the president and vice-president are absent or disabled. The secretary shall act as secretary of the board and shall keep all records and books of the district, shall keep the minutes of the meetings of the board, and may certify as to any action taken by the board. Each member of the board is entitled to receive a per diem payment as authorized by law and shall be reimbursed for actual expenses in carrying out his responsibilities, as approved by the board in its bylaws.

(c) The board shall appoint a person to the office of tax collector and may appoint such deputies as the board considers necessary. The collector and each of his deputies shall qualify by executing a bond for \$10,000 payable to the district and approved by the board conditioned on the faithful performance of their duties. The board shall establish compensation for its employees.

(d) The treasurer of the district shall deposit all funds of the district in the depository banks designated by the board as the official depository banks of the district.

(e) To the extent that funds in the depository banks are not insured by the Federal Deposit Insurance Corporation, district funds shall be secured in the manner provided by law for the security of funds of counties. Funds of the district may be invested and reinvested at the discretion of the board, its treasurer, or other authorized representative in direct or indirect obligations of the United States, this state, or any county, city, or school district or other political subdivision of this state, or may be placed in certificates of deposit at state or national banks in this state, provided that the funds are secured in the manner provided for the security of funds of counties.

**SECTION 7. BOARD MEETINGS.** (a) The board shall hold regular and special meetings at times and on dates as determined by the board.

(b) The board shall give notice of meetings as required by the district's bylaws.

(c) The board shall designate a place within Travis County for the meetings.

**SECTION 8. ELECTIONS.** (a) Elections held by the district shall be called by the board and results of any election shall be canvassed by the board. Except as provided by this Act, elections are governed by the Texas Election Code.

(b) Notice of district elections shall be given by publishing notice in a newspaper with general circulation in the district once a week for two consecutive weeks with the first publication to occur at least 14 days before the date of the election.

(c) An election for a particular purpose may be held separately or may be held at the same time as an election to be held for other purposes, including any maintenance tax election. Elections held at the same time may be called in a single election order, and the results canvassed in a single order.

**SECTION 9. MAINTENANCE TAXES.** The board may use the money received from its maintenance taxes to maintain, repair, and operate the district's properties, works, projects, facilities, and improvements, and to pay the costs of engineering and legal fees, as well as organization and administrative expenses.

**SECTION 10. PROPERTY TAXATION.** The district may levy and collect property taxes as provided by Subchapter G, Chapter 54, Water Code, and Title 1, Tax Code.

**SECTION 11. CONTRACTS.** (a) The district may enter into contracts with the United States or any of its agencies, the state or any of its agencies, a local government or any other public body, an individual, a corporation, or any other entity for the operation and maintenance of or construction of any facility or improvement authorized by this Act.

(b) A contract obligating the district to make payments in whole or in part from property taxes, other than maintenance taxes, is subject to approval at an election held under the same procedures required for the issuance of bonds payable from property taxes.

(c) A contract election may be held at the same time and in conjunction with an election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns is the same as the procedure for a bond election.

**SECTION 12. AWARDING CONTRACTS.** (a) Contracts with the board must be written. Except as provided by this section, the board shall:

(1) award each contract for the purchase of materials, machinery, and other things necessary to constitute the works, improvement, facilities, plants, equipment, and appliances of the district, or for construction of projects within the district to the lowest responsible bidder; and

(2) give notice for bids on each contract.

(b) The notice must state the general conditions, time, and place of opening sealed bids. The notice must be published at least once a week for three consecutive weeks before the date that bids are to be opened, and the first publication must be at least 21 days before the date of the opening of bids. The notice shall be published in one or more newspapers having general circulation in the area of the district.

(c) This subsection applies to contracts for the purchase of materials, machinery, and other things necessary to construct the works, improvement, facilities, plants, equipment, and appliances of the district or for the construction of projects within the district. If a contract is for an amount that is less than \$25,000, the board is not required to give notice for bids or solicit bids on the contract. If a contract is for an amount of at least \$25,000 but less than \$100,000, the board is not required to give notice for bids but is required to solicit at least three bids on the contract.

(d) A contract may cover all the improvements to be provided by the district, or the various elements of the improvements may be segregated for the purpose of

receiving bids and awarding contracts. A contract may provide that the improvements will be constructed in stages over a period of years, and may provide for the payment of a total sum that is the completed cost of the improvement or may be based on bids to cover costs of units of the various elements entering into the work as estimated and approximately specified by the district's engineers.

(e) A contract shall be awarded to the person submitting the lowest responsible bid, which bid in the board's judgment will be most advantageous to the district and result in the best and most economical completion of the district's proposed works, improvements, facilities, plants, equipment, and appliances.

**SECTION 13. CHANGE ORDERS.** (a) After a contract has been awarded and the district subsequently determines that additional work is needed or that the character or type of facilities contracted for should be changed, the board may authorize change orders to the contract on the terms that the board approves.

(b) If the total contract amount is \$300,000 or less, the board may approve change orders to the contract that do not increase or decrease the total cost of the contract by more than 25 percent.

(c) If the total contract amount is more than \$300,000, the board may approve change orders to the contract that do not increase or decrease the total cost of the contract by more than 20 percent.

(d) Change orders that result in an increase or decrease of the total contract cost in excess of the percentages authorized in this section may be authorized by the Texas Water Commission after review by the executive director of the Texas Department of Water Resources, or his duly appointed representative.

**SECTION 14. ESCROWED FUNDS.** Funds required to be placed in escrow under Chapter 54, Water Code, and rules of the Texas Department of Water Resources may be released in amounts up to \$100,000 on application and approval of the executive director of the Texas Department of Water Resources, or his duly appointed representative, or on approval of the Texas Water Commission. Those funds may be released in amounts greater than \$100,000 on review by the executive director, or his duly appointed representative, and application to and approval by the Texas Water Commission.

**SECTION 15. CONSTITUTIONAL REQUIREMENTS.** The legislature specifically finds that the requirements of Article XVI, Section 59(d), of the Texas Constitution have been satisfied in due course and time and in due order and that the legislature has the authority to adopt this Act.

**SECTION 16. VALIDATION.** The organization of Travis County Municipal Utility District No. 1 and all elections held, all contracts executed, and all bonds and other obligations issued by the district and the expenditure of funds in payment or satisfaction of those bonds and other obligations are validated, ratified, and confirmed. Bonds previously voted and taxes previously authorized at elections held within the district may be issued or levied, and collected, by the board without the necessity of any further elections. Bonds, contracts, and other obligations issued, executed, or incurred by the district before the effective date of this Act, to the extent not satisfied or paid before that date, continue in existence and shall be honored by and constitute the lawful obligations of the district in accordance with their respective terms on and after that date.

**SECTION 17. TRANSITION.** (a) The directors serving on the effective date of this Act shall continue to serve until their successors are elected in accordance with this section and have qualified for office.

(b) On the first Saturday in April 1986 and on the first Saturday in April of every fourth year after that date, two directors shall be elected at an election held in the district for four-year terms.

(c) On the first Saturday in April 1988 and on the first Saturday in April of every fourth year after that date, three directors shall be elected at an election held in the district for four-year terms.



SECTION 18. EFFECTIVE DATE. This Act takes effect September 1, 1985.

SECTION 19. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Barrientos moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### SENATE BILL 43 WITH HOUSE AMENDMENTS

Senator Leedom called **S.B. 43** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Stiles

Amend **S.B. 43** in SECTION 2 by striking Section 31.157 in its entirety and inserting in lieu thereof the following:

"Section 31.157. REPORT. (a) The commissioner shall prepare a draft report of a proposed real estate transaction involving the real property incorporating the results and findings of the evaluation of the property.

"(b) The draft report shall be submitted to the State Purchasing and General Services Commission which shall further evaluate the potential use of the property by another state agency or department. The commission may comment on any findings or recommendations made by the commissioner and may make additional recommendations regarding the use of the property. The commission shall complete the review of the draft report within 60 days of the receipt of the report and forward the comments to the commissioner.

"(c) The commissioner shall prepare and issue a final report incorporating the recommendations of the commission regarding use of the property by another state agency and addressing all comments received from the commission.

"(d) The final report shall be submitted to the governor, the presiding officers of both houses of the legislature, the Legislative Budget Board, and the governor's budget office not later than September 1 of the year preceding a regular session of the legislature. If the report contains an evaluation of a sale of property, it must also contain an evaluation of the lease potential of the property."

Committee Amendment No. 2 - Stiles

Amend **S.B. 43** in SECTION 2 by striking Section 31.156(b) in its entirety and inserting in lieu thereof the following:

"(b) The division shall identify the real property not being used or being substantially underused and make recommendations to the commissioner regarding the use of the property or regarding a real estate transaction involving the property. The recommendations shall include an analysis of the highest and best use to which the property may legally be placed. It shall include recommendations for alternative uses of the property addressing potential for commercial or agricultural lease of the property or any other real estate transaction or use that the division may deem to be in the best interest of the state. The division shall solicit proposals and shall accept any unsolicited proposals about real estate transactions involving the property that would be of significant benefit to the state."

## Committee Amendment No. 3 - Stiles

Amend S.B. 43 in SECTION 2 by striking language beginning with the word "Recommendations" on page 6, line 26 and ending with and including the word "rejected." on page 7, line 2.

## Committee Amendment No. 4 - Stiles

Amend S.B. 43 in Section 2 by adding subsection 31.159(d) as follows:

"(d) Current fair market value shall be determined in accordance with the following procedure: Simultaneously with the giving of the written notice described in the subsection (b) above, the division shall appoint an appraiser, and such appointment shall be described in such notice. Within 21 days of the receipt of said notice, the School Land Board shall appoint a second appraiser. If the School Land Board fails to appoint the second appraiser, the division shall appoint a second appraiser within 10 days of the expiration of said 20 day period. The two appraisers shall meet promptly and shall attempt to reach agreement on the current fair market value. If the two appraisers so selected do not reach agreement within 10 days of such meeting, the two original appraisers shall appoint another appraiser whose appraisal shall be final and binding on both parties if said appraisal is at least as high as the lowest of the appraisals of the two original appraisers. If said appraisal is not at least as high as the lowest of the two original appraisals, the two original appraisers shall continue to appoint additional appraisers until an additional appraiser's appraisal is at least as high as the lowest of the two original appraisals, and that appraisal shall be final and binding. Each appraiser shall be qualified, disinterested, and shall have M.A.I. or other comparable professional designation, and the appointment of each appraiser shall only be made by the appointing party following receipt of at least three competitive bids, and if the cost of the appraisal is reasonably expected to exceed \$10,000 the appointing party shall utilize the notification procedure set out in Article 6252-11c, Vernon's Texas Civil Statutes and all time periods described in this Act shall be extended for the number of days necessary to comply with said notification procedure. The appointing party shall award the appraisal services contract to the bidder submitting the lowest and best bid, and in determining who has submitted the lowest and best bid, the appointing party shall consider the factors set out in subsections (1) through (9) of Section 3.11(e) of Article 3, State Purchasing and General Services Act (Article 601b, Section 3.11(e) (1)-(9), Vernon's Texas Civil Statutes). Expense of the appraisal shall be paid by the division."

The amendments were read.

Senator Leedom moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 279 WITH HOUSE AMENDMENT**

Senator McFarland called S.B. 279 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

## Committee Amendment No. 1 - Campbell

Substitute the following for S.B. 279:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the regulation of freshwater fishing tournaments; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
SECTION 1. Subchapter B, Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.119 to read as follows:

"Section 66.119. FRAUD IN FRESHWATER FISHING TOURNAMENTS. (a) In this section, 'fishing tournament' means a contest in which a prize is to be awarded to one or more participants in the contest based on the weight, length, number or type of freshwater fish caught by the participants or based on any other criteria applicable to the fish caught.

"(b) A person commits an offense if, with intent to affect the outcome of a fishing tournament:

"(1) the person provides, offers to provide, sells or offers to sell a fish to a participant in the tournament for the purpose of representing that the fish was caught by the participant in the course of the tournament;

"(2) the person, as a participant in the tournament, accepts or agrees to accept a fish from another person for the purpose of representing that the fish was caught by the participant in the course of the tournament; or

"(3) the person, as a participant in the tournament, represents that a fish was caught by the person in the course of the tournament when in fact the fish was not caught by that person or the fish was not caught in the course of that tournament.

"(c) A person commits an offense if the person sponsors or conducts a fishing tournament and knows of the occurrence in the tournament of activity prohibited by Subsection (b) of this section and does not immediately notify a law enforcement officer commissioned by the director of its occurrence.

"(d) An offense under this section is a Class A misdemeanor, except that if the offense occurred during a tournament in which any prize or combination of prizes to be awarded for any one category for which an award is given, whether the prize or prizes are to an individual or a team, is worth \$10,000 or more in money or goods, the offense is a felony of the third degree."

SECTION 2. This Act takes effect September 1, 1985.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator McFarland moved to concur in the House amendment.

The motion prevailed.

#### SENATE BILL 303 WITH HOUSE AMENDMENT

Senator Truan called **S.B. 303** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.  
Floor Amendment No. 1 - Danburg

Amend **S.B. 303** page 3, line 9 by adding the word "written" following the word "the" and before the word "consent".

The amendment was read.

Senator Truan moved to concur in the House amendment.

The motion prevailed.

**SENATE BILL 241 WITH HOUSE AMENDMENT**

Senator Traeger called **S.B. 241** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.  
Committee Amendment No. 1 - Gilley

Amend **S.B. 241** by the following:

On Page 1, line 14, add the following language:

"However, the Court may not meet outside of Bexar County more than three times a year."

On Page 1, line 20 and 21, strike the following:

"take effect and be in force from and after its passage, and it is so enacted."

On Page 1, line 20 and 21, insert the following after the word "Act":

"takes effect September 1, 1986."

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE SENATE BILL 544 ON SECOND READING**

Senator McFarland moved to suspend the regular order of business to take up for consideration at this time:

**C.S.S.B. 544**, Relating to alcohol and other drug dependency coverage in certain individual and group health insurance policies and other health coverage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Henderson, Howard, Jones, Kothmann, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

Nays: Harris, Leedom, Mauzy.

Absent: Glasgow, Sarpalius.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Amend **C.S.S.B. 544** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article 3.51-9, Insurance Code, is amended by amending Sections 1 and 2 thereof to read as follows:

Sec. 1. PURPOSE. The purpose of this article [Act] is to provide [encourage] consumers with [to avail themselves of] basis levels of benefits provided by] benefits for the care and treatment of alcohol dependency in group health insurance policies or contracts, [and] coverage provided by health maintenance organizations, and all self-funded or self-insured plans (but excluding those self-funded or self-insured plans with 250 or less employees or members), that provide basic hospital, surgical or major medical expense benefits or coverages or any combination of these coverages, but excluding all individual insurance policies,

regardless of the method of solicitation or sale, and excluding all health insurance policies that only provide cash indemnity for hospital or other confinement benefits, or supplemental or limited benefit coverage, or coverage for specified diseases or accidents, or disability income coverage, or any combination thereof. [for the care and treatment of alcohol and other drug dependency and to preserve the right of the consumer to select such coverage according to his medical economic needs.]

Sec. 2. AVAILABILITY OF COVERAGE FOR ALCOHOL ~~[AND OTHER DRUG]~~ DEPENDENCY. Insurers, nonprofit hospital and medical service plan corporations subject to Chapter 20 of this Code, ~~[and]~~ health maintenance organizations, and all employer, trustee or other self-funded or self-insured plans or arrangements, transacting health insurance or providing other health coverage or services in this state shall provide, ~~[offer and make available,]~~ under such group insurance policies or contracts~~;~~ and such plans or arrangements providing hospital and medical coverage or services on an expense incurred, service, or prepaid basis, benefits for the necessary care and treatment of alcohol ~~[and other drug]~~ dependency that are not less favorable than for physical illness generally, subject to the same durational limits, dollar limits, deductibles, and coinsurance factors. ~~[Such offer of benefits shall be subject to the right of the group policy or contract holder to reject the coverage or to select any alternative level of benefits if such right is offered by or negotiated with such insurer, service plan corporation, or health maintenance organization.]~~

This section shall not apply to any employer, trustee or any other self-funded or self-insured plans or arrangements with 250 or less employees or members, or any individual insurance policies regardless of the method of solicitation or sale, nor to any health insurance policies that only provide cash indemnity for hospital or other confinement benefits, or supplemental or limited benefit coverage, or coverage for specified diseases or accidents, or disability income coverage, or any combination thereof.

Any benefits so provided shall be determined as if necessary care and treatment in an alcohol ~~[or other drug]~~ dependency treatment center were care and treatment in a hospital. For purposes of this article ~~[Act]~~, the term "alcohol ~~[or other drug]~~ dependency treatment center" means a facility which provides a program for the treatment of alcohol ~~[or other drug]~~ dependency pursuant to a written treatment plan approved and monitored by a physician and which facility is also:

- (1) affiliated with a hospital under a contractual agreement with an established system for patient referral~~;~~ or
- (2) accredited as such a facility by the Joint Commission on Accreditation of Hospitals~~;~~ or
- (3) licensed as an alcohol treatment program by the Texas Commission on Alcoholism~~;~~ or

~~[(4) certified as a drug dependency treatment program by the Texas Department of Community Affairs in accordance with such standards, if any, as may be adopted pursuant to Subsection (c), of Section 5.12 of the Texas Controlled Substance Act (Article 4476.15, Vernon's Texas Civil Statutes), by the Executive Director of the Texas Department of Community Affairs, or]~~

- ~~(4)~~ ~~[(5)]~~ licensed, certified, or approved as an alcohol ~~[or other drug]~~ dependency treatment program or center by any other state agency having legal authority to so license, certify or approve.

SECTION 2. (a) This act takes effect on January 1, 1986, and applies only to group insurance policies, contracts, and plans and to coverage provided by health maintenance organizations sold or delivered or issued for delivery or renewed, extended, or amended in this state on or after January 1, 1986, or subject to collective bargaining agreements applicable to particular policyholders, whichever is later in time. Group insurance policies, contracts and plans and coverage

provided by health maintenance organizations sold or delivered or issued for delivery or renewed, extended or amended in this state before January 1, 1986, or subject to collective bargaining agreements applicable to particular policyholders entered into before January 1, 1986, are subject to the law as it existed before the effective date of this Act until such time as those policies, contracts, coverages, and agreements are renewed, extended, amended, cancelled, expired, or renegotiated, and that law is continued in effect for that purpose.

(b) A suit filed under Article 3.51-9, Insurance Code, before the effective date of this Act is governed by the law in effect at the time the suit was filed.

SECTION 3. If any part of this Act shall be held by the courts to be unconstitutional or unenforceable or preempted by federal law in whole or in part, such invalidity shall not affect the validity or enforceability of the remaining provisions of the article and the Legislature hereby declares that it would have passed such remaining provisions and any valid and enforceable portions of this Act despite such invalidity.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule hereby suspended.

The amendment was read and was adopted.

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### **RECORD OF VOTES**

Senators Howard and Mauzy asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### **COMMITTEE SUBSTITUTE SENATE BILL 544 ON THIRD READING**

Senator McFarland moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 544 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Henderson, Howard, Jones, Kothmann, Krier, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Harris, Leedom, Washington.

Absent: Glasgow.

The bill was read third time and was passed.

#### **RECORD OF VOTES**

Senators Howard and Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

#### **MOTION TO PLACE**

#### **COMMITTEE SUBSTITUTE SENATE BILL 112 ON THIRD READING**

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 112 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving two-thirds vote of the Members present)

Yeas: Barrientos, Brooks, Caperton, Edwards, Henderson, Kothmann, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Washington, Whitmire, Williams.

Nays: Blake, Brown, Farabee, Glasgow, Harris, Howard, Jones, Krier, Leedom, Sarpalius, Sims, Traeger.

#### SENATE BILL 1144 ON SECOND READING

Senator Montford moved to suspend the regular order of business to take up for consideration at this time:

**S.B. 1144**, Relating to the appropriation of state water for beneficial uses.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Washington, Whitmire, Williams.

Nays: Mauzy, Truan.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 1144**, Section 11.025, as follows:

Sec. 11.025. SCOPE OF APPROPRIATIVE RIGHT. A right to use state water under a permit or a certified filing is limited not only to the amount specifically appropriated but also to the amount which is being or can be beneficially used for the purposes specified in the appropriation, and all water (not) which is not or cannot be so used is considered not appropriated and is subject to a new appropriation, as provided by this chapter.

Amend SECTION 2. Section 11.134(d), to read as follows:

(d) In determining whether water can be beneficially used under existing water rights or vested riparian rights, the commission (may) shall consider:

The amendment was read and was adopted.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **S.B. 1144** as follows:

(1) Add a new Section 4 between lines 40 and 41 to read as follows:

Section 4. This Act takes effect on the effective date of H.B. 2, Acts of the 69th Legislature, Regular Session, 1985.

(2) Amend existing Section 4 to read as follows:

Section 5. The fact that the Supreme Court of Texas in Lower Colorado River Authority et al., v. Texas Department of Water Resources, et al., No. C-1620, has interpreted the term "unappropriated water" as used in Section 11.134 Water

Code, to mean the amount of water remaining after taking into account all existing permits and certified filings valued at their recorded levels, and that Section 11.134, Water Code, prohibits "double permitting", which interpretations result in preventing substantial quantities of state water from being beneficially used and thereby wasted contrary to the Conservation Amendment, Article XVI, Section 59, of the Texas Constitution and the intent and directives of the legislature and the importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 27, Nays 4.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Whitmire, Williams.

Nays: Barrientos, Mauzy, Truan, Washington.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### SENATE BILL 1144 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 1144 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Whitmire, Williams.

Nays: Mauzy, Truan, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Washington, Whitmire, Williams.

Nays: Mauzy, Truan.

#### GUEST PRESENTED

Senator Parmer was recognized and introduced Dr. John Lucas of Fort Worth, the Capitol Physician for the Day.

The Senate welcomed Dr. Lucas and extended their appreciation for his service.



**SENATE BILL 1348 ON SECOND READING**

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 1348**, Relating to admonitions by the court to defendants who are noncitizens before acceptance of a plea of guilty or nolo contendere; amending Section (a), Article 26.13, Code of Criminal Procedure, 1965, as amended.

The bill was read second time and was passed to engrossment.

**SENATE BILL 1348 ON THIRD READING**

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1348** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE SENATE BILL 840 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 840**, Relating to the establishment of a Center for Technology Development and Transfer at The University of Texas at Austin; amending Title 3, Education Code, as amended, by adding Section 65.45 to Subchapter C of Chapter 65 and Section 51.911 to Subchapter Z of Chapter 51.

The bill was read second time and was passed to engrossment.

**COMMITTEE SUBSTITUTE SENATE BILL 840 ON THIRD READING**

Senator Barrientos moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 840** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE SENATE BILL 744 ON SECOND READING**

Senator Glasgow moved to suspend the regular order of business to take up for consideration at this time:

**C.S.S.B. 744**, Relating to the offense of improperly displaying an abusable glue or aerosol paint or delivering an abusable glue or aerosol paint to a person who is younger than 17 years of age.

The motion prevailed by the following vote: Yeas 22, Nays 9.

Yeas: Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Williams.

Nays: Barrientos, Brooks, Krier, Mauzy, Parmer, Truan, Uribe, Washington, Whitmire.

The bill was read second time and was passed to engrossment.

#### RECORD OF VOTES

Senators Barrientos, Brooks, Mauzy, Parmer and Uribe asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 22  
S.C.R. 134  
S.B. 142  
S.B. 231  
S.B. 332  
S.B. 340 (Signed subject to Art. III,  
Sec. 49a of the Constitution)  
S.B. 362  
S.B. 622  
S.B. 638  
S.B. 764  
S.B. 805  
S.B. 819  
S.B. 907

#### COMMITTEE SUBSTITUTE SENATE BILL 528 ON SECOND READING

On motion of Senator Henderson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 528**, Relating to the discharge of certain effluent within one mile of a park, playground, or schoolyard.

The bill was read second time and was passed to engrossment.

#### COMMITTEE SUBSTITUTE SENATE BILL 528 ON THIRD READING

Senator Henderson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 528** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### HOUSE BILL 1837 REREFERRED

On motion of Senator Harris and by unanimous consent, **H.B. 1837** was withdrawn from the Committee on Education and rereferred to the Committee on Economic Development.

#### MEMORIAL RESOLUTION

**H.C.R. 199** - (Harris): Memorial resolution for Frank Gliieber.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

**H.C.R. 185** - (Kothmann): Recognizing the week of May 12-19 as Tejano Conjunto Music Week in Texas.

**H.C.R. 196** - (Truan): Honoring Dr. Edmundo Mireles of Corpus Christi.

**H.C.R. 201** - (Truan): Honoring Dr. Vance Littleton, Superintendent of Corpus Christi Independent School District.

**S.C.R. 149** - By Caperton: Honoring long and productive career of Dr. Leslie M. Reid at Texas A&M University.

**S.R. 388** - By Edwards: Extending congratulations to Lite Rock FM 95.5, KOKE Radio staff.

**ADJOURNMENT**

On motion of Senator Mauzy, the Senate at 12:21 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

**SIXTY-FIFTH DAY**

(Wednesday, May 8, 1985)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

Absent-excused: Sharp.

A quorum was announced present.

Ambassador Ed Clark offered the invocation as follows:

O God of grace and glory, we remember before You this day our brother Ben. We thank You for giving him to us, his family and friends, to know and to love as a companion on our earthly pilgrimage. In Your boundless compassion, console us who mourn. Give us faith to see in death the gate of eternal life, so that in quiet confidence we may continue our course on earth until, by Your call, we are reunited with those who have gone before; through Jesus Christ our Lord.

And, now, may I say a prayer for our country which Ben would want us to do.

Almighty God, who has given us this good land for our heritage, we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless our land with honorable industry, sound learning, and pure manners. Save us from violence, discord, and confusion; from pride and arrogance, and from every evil way. Defend our liberties and fashion into one united people the multitudes brought hither out of many kindreds and tongues. Endue with the spirit of wisdom those to whom—in Thy name—we entrust the authority of government that there may be justice and peace, at home; and that, through obedience to Thy law, we may show forth Thy praise among the nations of the earth.